

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

ELISHA GILBERT, JR.,	:	
	:	
Petitioner	:	
	:	
vs.	:	
	:	
STATE OF GEORGIA,	:	NO. 5:12-cv-226 (MTT)
	:	
Respondent	:	<b><u>ORDER</u></b>

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Petitioner **ELISHA GILBERT, JR.** has filed a notice of appeal (Doc. 11) with respect to this Court's July 19, 2012 Order (Doc. 8). Said Order denied Petitioner's motion for reconsideration (Doc. 7) of the Court's June 27, 2012 Order (Doc. 5), which, in turn, denied Petitioner mandamus relief. To the extent that a certificate of appealability ("COA") is required for Petitioner to appeal this action, it is **DENIED**. **See Slack v. McDaniel**, 529 U.S. 473, 484 (2000).

The Clerk of the Eleventh Circuit Court of Appeals directed Petitioner to either pay the \$455 appellate filing fee or file in this Court a motion to proceed *in forma pauperis* on appeal (Doc. 12). Petitioner has done neither. To the extent Petitioner's notice of appeal could be construed to request that he be allowed to proceed *in forma pauperis*, said request is **DENIED**. For the reasons stated in this Court's June 27th and July 19th Orders, the Court finds that Petitioner cannot raise any non-frivolous issue on appeal, as required for leave to proceed *in forma pauperis*. 28 U.S.C. § 1915(a)(3).

**SO ORDERED**, this 12th day of December, 2012.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT